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Michael C Stuart Esquire  
Cohen Pontani Lieberman & Pavane  
551 Fifth Avenue Suite 1210  
New York, NY 10176

EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 01/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/513,964

Applicant(s)

MEYERS, STEPHAN

Examiner

Hunter B. Lonsberry

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because figure 3, step 130 is not mentioned in the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-12, 14-18, are rejected under 35 U.S.C. 102(s) as being clearly anticipated by U.S. Patent 6,199,076-B1 to Logan.

Regarding claim 1, Logan discloses a method for generating a virtual broadcast on a device through the following method: downloading and storing content and other

information to be integrated to a "virtual" broadcast from a website to a device in any order (column 8, lines 24-44), and organizing the data on the device into a particular order to be broadcasted according to a selected algorithm provided on the device column 5, lines 38-67).

Regarding claim 2, Logan discloses in figure 3 a method for the device to playback the virtual broadcast.

Regarding claim 3, Logan discloses that the device connects intermittently to a website to download program data (column 6, lines 38-61).

Regarding claim 4, Logan discloses a method in which the data downloaded to the device is selected based upon a user's preferences (column 8, lines 12-24).

Regarding claim 5, Logan discloses that advertisements can be downloaded from a website and inserted into the virtual broadcast (column 8, lines 29-34).

Regarding claim 6, Logan discloses a method in which the content downloaded to the device is made up of a number of items, introductions for the content to be broadcasted on the device is downloaded, and part of the program organizing process includes introducing each program with a related introduction (column 30, lines 1-9, column 2, 19-24).

Regarding claim 7, Logan discloses that the content includes a plurality of songs (column 30, lines 31-35, column 5, lines 60-64) and the virtual broadcast is a virtual radio broadcast (column 40, 18-20).

Regarding claim 8, Logan discloses that more than one program can be processed at the same time (column 7, lines 24-31).

Regarding claim 9, Logan discloses that the content comprises a number of songs and that the user may assign a priority value to the scheduled program (column 9, lines 15-25) or delete it (column 9, lines 11-12).

Regarding claim 10, Logan discloses that the user can rate a plurality of songs by assigning a weighted priority value (column 9, lines 15-25).

Regarding claim 11, Logan discloses that after a program has finished playing, the device connects to the website and uploads the user priority given to the program and downloads additional content and other information based upon the user ranking (column 9, lines 30-50).

Regarding claim 12, Logan discloses that the device is a laptop (column 4, 33-34).

Regarding claim 14, Logan discloses a method for generating a virtual broadcast on a device through the following method: the device receives a signal generated via broadcast satellite or cellular radio, the signal is comprised of content and associated data to be integrated into the virtual broadcast and transmitted to the device in any order (column 7, lines 44-49); organizing the content and other data on the device in a particular order for the virtual broadcast according to a selected algorithm provided on the virtual broadcast device (column 8, lines 39-53).

Regarding claim 15, Logan discloses in figure 3 a method of playing the virtual broadcast on the device.

Regarding claim 16, Logan discloses that advertising can be downloaded from a website and inserted into the virtual broadcast (column 8, lines 29-34).

Regarding claim 17, Logan discloses a radio like device that plays a "virtual broadcast," the content of which includes a plurality of songs (column 30, lines 31-35, column 5, lines 60-64) and introductions for the content to be broadcasted (column 30, lines 1-9, column 2, 19-24).

Regarding claim 18, Logan discloses that the device is a portable laptop computer (column 4, 33-34).

Regarding claim 26, Logan discloses a device in figure 1, for generating a virtual broadcast comprised of: a memory (storage unit 107), a modem 115 for inputting data comprised of content and other information to be integrated into the virtual broadcast and stored in storage unit 107, Client CPU 105 which organizes the data into a particular order for the virtual broadcast by actuating a specific algorithm provided on the device (column 9, lines 15-30).

Regarding claim 27, Logan discloses that the data for virtual broadcast includes advertising and a means of organizing the advertising into the virtual broadcast (column 6, lines 60-67, column 8, lines 39-44).

Regarding claim 28, Logan discloses in figure 1 a device for playing the generated virtual broadcast.

Regarding claim 29, Logan discloses means for the device to obtain data from a website (column 5, lines 47-53).

Regarding claim 30, Logan discloses means for uploading user preferences for the data including data type to the website (column 8, lines 12-24, 45-53).

Regarding claim 31, Logan discloses that the content comprises a number of items and the device will upload to a website, after playing an initial virtual broadcast, user rankings of the items played for determining future data to be downloaded from the website to the device (column 9, lines 11-44).

Regarding claim 32, Logan discloses the portions of the data can be deleted on the device (column 9, lines 11-12).

Regarding claim 33, Logan discloses that a user can give higher priority to certain programs (column 9, lines 15-25).

Regarding claim 34, Logan discloses that the data may be obtained from a cellular radio or broadcast satellite signal (column 7, lines 44-47),

Regarding claim 35, Logan discloses that the virtual broadcast may be comprised of music as well as introductions for the music (column 30, lines 1-9, 31-35).

Regarding claim 37, Logan discloses that the laptop device can have wireless access to the Internet via a Cellular Digital Packet Data service (column 7, line 66-column 8 line 7).

Regarding claim 39, Logan discloses that more than one program can be processed at the same time (column 7, lines 24-31).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 19, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,199,076-B1 to Logan in view of U.S. Patent 6,202,062-B1 to Cameron.

Regarding claim 13, Logan discloses that the device may be a laptop (column 4, line 33-35) using a wireless link (column 7, line 66-column 8 line 7). Logan does not disclose a device that is a mobile phone. Cameron discloses a wireless phone with Internet Protocol Capability which can connect to a website. Therefore, it would have been obvious to one skilled in the arts at the time of invention to integrate the capabilities of the laptop of Logan with the mobile phone of Cameron as to create a more portable device for listening to a virtual broadcast thereby lessening the load a user has to carry.

Regarding claim 19, Logan discloses that the device may be a laptop (column 4, line 33-35) using a wireless link (column 7, line 66-column 8 line 7). Logan does not disclose a device that is a mobile phone. Cameron discloses a wireless phone with Internet Protocol Capability which can connect to a website. Therefore, it would have been obvious to one skilled in the arts at the time of invention to integrate the capabilities of the laptop of Logan with the mobile phone of Cameron as to create a more portable device for listening to a virtual broadcast thereby lessening the load a user has to carry.

Regarding claim 38, Logan discloses that the device may be a laptop (column 4, line 33-35) using a wireless link (column 7, line 66-column 8 line 7). Logan does not disclose a device that is a mobile phone. Cameron discloses a wireless phone with

Internet Protocol Capability which can connect to a website. Therefore, it would have been obvious to one skilled in the arts at the time of invention to integrate the capabilities of the laptop of Logan with the mobile phone of Cameron as to create a more portable device for listening to a virtual broadcast thereby lessening the load a user has to carry.

Claims 20-25, 36 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,199,076-B1 to Logan in view of U.S. Patent 6,188,398-B1 to Collins-Rector.

Regarding claim 20, Logan discloses a method for generating a virtual broadcast on a laptop through the following method: a number of news programs and related data are downloaded and stored on the laptop from a website in any order (column 30 lines 37-42, column 6, lines 51-67), the content and related data is organized on the device according to an algorithm stored on the device (column 8, lines 39-53), the device may reconnect and download additional news stories from the website (column 9, lines 51-62) and generate an updated broadcast which includes the new content. Logan does not disclose that the programs played on the device are television broadcast video files. Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to a user (column 2, line 63-column 3, line 6). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to include a web browser containing a QuickTime browser plug in to view video encoded news stories in order to provide a user with a customized broadcast tailored to their specific interests.

Regarding claim 21, Logan discloses that an old program may be deleted from the plurality of news stories stored on the device (column 9, lines 11-12, column 28, lines 15-23).

Regarding claim 22, Logan discloses that the broadcast device may use a web browser such as Netscape Navigator or Microsoft Internet Explorer which allow a user to view news as well as other information at the same time on different portions of the screen (column 10, lines 7-11).

Regarding claim 23, Logan discloses a method for generating a virtual broadcast on a device via the following method: receiving a cellular radio or broadcast satellite signal (column 7, lines 44-49), the signal comprising audio of news and other data to be integrated in a virtual broadcast (column 8, lines 29-41, column 30, lines 37-42), organizing the content and other data on the device in a particular order for the virtual broadcast according to a selected algorithm provided on the virtual broadcast device (column 8, lines 39-53), periodically downloading an additional news story from a website and generating an updated virtual broadcast that includes the additional news story (column 9, lines 51-62). Logan does not disclose that the device can play television video encoded images on the laptop. Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to a user (column 2, line 63-column 3, line 6). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to include a web browser containing a QuickTime browser plug in to view

video encoded news stories in order to provide a user with a customized broadcast tailored to their specific interests.

Regarding claim 24, Logan discloses that an old program may be deleted from the plurality of news stories stored on the device (column 9, lines 11-12, column 28, lines 15-23).

Regarding claim 25, Logan discloses that the broadcast device may use a web browser such as Netscape Navigator or Microsoft Internet Explorer which allow a user to view news as well as other information at the same time on different portions of the screen (column 10, lines 7-11).

Regarding claim 36, Logan discloses that the device may be a laptop capable of displaying a video image (column 4, 34-41). Logan does not disclose the ability to play videos on the device. Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to a user (column 2, line 63-column 3, line 6). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to include a web browser containing a QuickTime browser plug in to view video encoded news stories and other content in order to provide a user with a customized broadcast tailored to their specific interests.

Regarding claim 40, Logan discloses a device in figure 1, for generating a virtual broadcast comprised of: a memory (storage unit 107), a modem 115 for inputting data comprised of news and other information to be integrated into the virtual broadcast and stored in storage unit 107(column 30, lines 31-35), Client CPU 105 which organizes the

news stories and other information into a particular order for the virtual broadcast by actuating a specific algorithm provided on the device (column 9, lines 15-30), means for inputting additional news stories and generating an updated virtual broadcast by including an additional news story (column 9, lines 51-62). Logan does not disclose integrating downloaded video content from a website as part of a virtual broadcast. Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to a user (column 2, line 63-column 3, line 6). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to include a web browser containing a QuickTime browser plug in to view video encoded news stories in order to provide a user with a customized broadcast tailored to their specific interests.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 6,314,094-B1 to Boys: Mobile Wireless Internet Portable Radio.

U.S. Patent 6,192,340-B1 to Abecassis: Integration of Music From a Personal Library with Real-Time Information.

U.S. Patent 6,167,254 to Farris: Mobile Data/Message/Electronic Mail Download System Utilizing Network-Centric Protocol Such as JAVA.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-

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305-3234. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5359 for regular communications and 703-372-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

HBL  
January 14, 2002

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600